

REMARKS

Claims 16 to 34 continue to be in the application.

New claims 35 and 36 are submitted.

New claim 35 is based on US Patent Publication US 2007/0131052 A1, Page 3, paragraph [0040]

New claim 36 is based on US Patent Publication US 2007/0131052 A1, Page 3, paragraph [0040] and on claims 26, 27, 28, 29, 30, 31, 32, 33, and 34.

This is the first Office Action for the serial number 10/588,590, JOINING DEVICE FOR AN ACTUATING LEVER AND SUPPORTING ELEMENT OF A VALVE OPERATING MECHANISM OF AN INTERNAL COMBUSTION ENGINE, filed on 9/25/06.

Election/Restrictions

Applicant's election with traverse of group 111 in the reply filed on 11/21/08 is acknowledged. The traversal is on the ground(s) that the office action did not state any reasons for why inventions I and III are distinct and this does not put burden on examiner. This is not found persuasive because independent claim 16 contains a control lever which is not cited in independent claim 25, therefore claim 16 is distinct from claim 25 which put burden on examiner to search outside of the art unit to find the control lever.

The requirement is still deemed proper and is therefore made FINAL.

Applicants have noted the Restriction Requirement. They wish to postpone further communications relating to the Final Restriction Requirement to the point in time where allowable subject matter has been uncovered.

Claim Rejections - 35 USC § 102

Claims 25, 27-28 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent # 6,732,983 to Blake et al.

The rejection is respectfully traversed.

The present invention is directed to a connection device for the pivotable and captive connection of a control lever and a supporting element of a mechanical valve controller of an internal combustion engine (US Patent Publication US 2007/0131052 A1, Page 1, paragraph [0002]).

In contrast, the reference Blake et al. is directed to “a cable clip having a locking jaw structure capable of securing a coaxial cable for subsequent mounting to a surface. The cable clip is formed with upper and lower jaw portions defining a cable retaining opening adapted for receiving at least one cable therein” is disclosed in Blake et al., abstract, lines 1 to 5.

Therefore, the Blake et al. reference is directed to a completely different device as to compared with the joining device for an actuating lever and supporting element of a valve operating mechanism of an internal combustion engine.

Blake et al. teaches an upper leg (12) having an essentially round geometrically closed first opening (42), a lower leg (14) having an essentially slot-shaped geometrically closed second opening (44, column 3, lines 50-51) and a connecting section (16) connected to the upper and lower legs to form a U-shaped cross-sectional geometry.

As to the aperture 42, the Blake et al. reference says in column 3, lines 45 to 51: “Finally, upper and lower jaw portions 12 and 14 each define a fastener-receiving aperture, reference as 42 and 44 respectively for securing the clip (and cable) to a mounting surface. In a preferred embodiment, aperture 42 is generally circular and sized for receiving a mechanical fastener, such as a nail or screw. Aperture 44 is preferably elongated or slotted to allow for a degree of freedom for adjustment. ”.

In contrast to the reference Blake et al, the present specification (US Patent Publication US 2007/0131052 A1, Page 1, in paragraph [0046]) states: “as shown in Fig. 6, the diameter D1 of the opening 13 in the upper leg 10 was selected such that it is greater than the width of the opening D2 in the lower leg 11 at a right angle to its longitudinal extension. This combination has the effect that, given a preset undercut path, a sufficient retention on the spherical top side of the cam follower I achieved, or that, given a preset diameter of this opening on the top side of the cam follower 1, a sufficiently large undercut depth is utilizable.”.

The holes according to the reference Blake et al. are laid out for passing a fastener sequentially through the holes, whereas (US Patent Publication US 2007/0131052 A1, Page 3, paragraph [0046]) the upper opening (13) of the upper leg (10) is sized such that the spherically shaped top side (4) of the supporting section (4) of the cam follower (1) is securely supported in this position, and that a sufficiently large undercut depth can be utilized given a preset diameter of this upper opening (13) of the upper leg (10) on the top side of the cam follower (1). Furthermore, according to US Patent Publication US 2007/0131052 A1, Page 3, paragraph [0048], a slightly longer construction of the lower leg (11) makes possible a

comparatively long slot-shaped opening (14) promoting the centering of the support element (6) and of the cam follower (1).

The element (16) of the reference Blake et al. is designated in the reference as 'interior surface' and not as "connecting section" as the Office Action says.

The upper and lower legs have free ends and wherein the free ends point away from each other.

Applicants respectfully disagree. No free ends are shown at the upper jaw portion (12) and at the lower jaw portion (14) in the reference Blake et al. The reference Blake et al. states in column 4, lines 25 to 28: "Upper jaw portion 12 defines a front peripheral edge defining recessed lip (260) that provides a structure for interlocking engagement with projecting member (220) and flange (240).". Furthermore, the Blake et al. reference states in column 4, lines 35 through 38: "A further significant aspect of the present invention involves the provision of interlocking teeth 320 and 340, on upper and lower jaw portion 120 and 140 which provide for the alignment of the clip jaws.".

It is respectfully submitted that the presence of recessed lip 260 and of interlocking teeth 320 on the upper jaw portion 120 renders the end of the upper jaw portion 120 not free.

The reference Blake et al. says in column 4, lines 21 to 25: "More particularly, lower jaw portion 140 defines a front peripheral edge having an upwardly projecting post member 220 terminating in an inwardly projecting flange 240 having a beveled upper edge.".

It is further submitted that the presence of interlocking teeth 340 on the lower jaw portion 140 and that the lower jaw portion 140 defines a front peripheral edge , having an outwardly projecting post member 220 terminating in an inwardly projecting flange 240 having a beveled upper edge renders the end of the lower jaw portion 140 not free.

The second opening in the lower leg has a stadium-like geometry including two parallel opening sections connected via semi-circular opening sections.

The reference Blake et al. in column 4, lines 47 to 54 says: “Finally, upper and lower jaw portions 12 and 14 each define a fastener-receiving aperture, referenced as 420 and 440 respectively, for securing the clip (and cable) to a mounting surface. In a preferred embodiment, aperture 420 is generally circular and sized for receiving a mechanical fastener, such as a nail or screw. Aperture 440 is preferably elongated or slotted to allow for a degree of freedom for adjustment.”.

Thus the apertures 420, 440 of the reference Blake et al. are to be adapted to a mechanical fastener such as nail or crew. This calls for a diameter of the apertures slightly larger than that of a nail or screw. Since the joining device of the present invention is cooperating with a control lever and a support element of a mechanical valve controller of an internal combustion engine, the size of the retaining element and of the upper leg 10 and of the lower leg 11 and their opening 13, 14 will be substantially related to the dimensions of a control lever and a support element of a mechanical valve controller of an internal combustion engine, which are believed to be an order of magnitude larger than the diameter of a nail of a cable clip. In view of the difference in dimensioning between a diameter of a fastening element of a cable clip and the dimension of a retaining element according to the present invention, a

person of ordinary skill in the art trying to conceive a retaining element would not look to the apertures of the reference Blake et al. because of the different sizes of the active elements.

A second separation distance between the lower leg and the upper leg near the connection section is greater than a first separation distance between a second free end of the lower leg and a first free end of the upper leg (occurs when the first leg is mounted on the second leg with element 22 locking on element 26).

As set forth above, the upper jaw portion and the lower jaw portion do not have free ends but have active devices at their ends. As the reference Blake et al. uses a mechanical fastener such as a nail or a screw, this is in clear contrast to the present invention where an undercut 8 of a support element 6 is to receive the retaining element 9 (US Patent Publication US 2007/0131052 A1, Page 3, paragraph [0036]), Fig. 4.

Claims 26 and 30-33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Blake et al.

The rejection is respectfully traversed.

Blake et al. teaches the upper and lower legs having free ends but fails to teach the free ends have lead-in chamfers. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the free ends with lead-in chamfers to provide ornament appearance of the free ends.

It was pointed out above that the upper jaw portion 12 and the lower jaw portion 14 of the Blake et al. reference do not have free ends. The reference Blake et al. states in column 4, lines 25 to 28: "Upper jaw portion 12 defines a front peripheral edge defining recessed lip (260) that provides a structure for interlocking engagement

with projecting member (220) and flange (240).”. Furthermore, the Blake et al. reference states in column 4, lines 35 through 38: “A further significant aspect of the present invention involves the provision of interlocking teeth 320 and 340, on upper and lower jaw portion 120 and 140 which provide for the alignment of the clip jaws.”.

It is respectfully submitted that an addition of lead in chamfers to the presence of recessed lip 260 and of interlocking teeth 320 on the upper jaw portion 120 would turn the cable clip of the reference Blake et al. into a Christmas tree.

Regarding to claims 30-31 and 33, Blake et al. teaches the width of second opening/2nd connection radius and a diameter in the first opening/support element but fails to teach the width of the second opening/2nd connection radius is smaller than the diameter of the first opening/support element. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the width of the second opening/2nd connection radius smaller than the diameter in the first opening/support element to provide snugly fit for a fastener in the slot.

Applicant is not finding “the width of the second opening, the second connection radius, a diameter in the first opening, a support element” in the Blake et al. reference. There would be no shrinking of the second opening necessary.

In regard to claim 32, Blake et al. teaches the upper leg but fails to teach the upper leg is axially shorter than the lower leg. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the length of upper leg to be shorter than the lower leg to provide ornament appearance of the device.

Claim 29 standected under 35 U.S.C. 103(a) as being unpatentable over Blake et al. in view of US Patent # 4,676,203 to Nouno.

Blake et al. teaches the semi-circular opening sections but fails to teach the semi-circular opening having slot-like extensions; Nouno teaches the slot-like extension. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added slot-like extension to Blake et al.'s semi-circular opening section as taught by Nouno to provide additional space in the slot for allowing a fastener to adjust therein before tighten it.

As the reference Blake et al. teaches apertures for mechanical fasteners such as nails or screws, there is not seen a teaching of apertures in the reference Nouno. The teaching of Nouno refers to "Rocker Arm Spring for a Valve Actuating Mechanism of an Internal Combustion Engine". This is different from the present invention and from the reference Blake et al. There seems to be a lack of direction in the references Blake et al. and Nouno.

Blake et al. in view of Nouno teaches slot-like extension but fails to teach additional slot-like extension. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added additional slot-like extension to provide additional space in the slot for allowing a fastener to adjust therein before tightening.

Slot like extensions are not suitable for wire clips which serve to attach a cable to a surface. Such attachments of cable clips have to be solidly fastened and too large apertures loosen the installation.

The Office Action refers to Conclusion.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent # 2,666,245 to Fernberg

US Patent # 7,322,551 to Simonsen

US Patent # 5,596,792 to Shelton

US Patent # 3,501,117 to Soltysik

US Patent # 3,312,444 to De Sena

Fernberg, Simonsen, Shelton, Soltysik and De Sena teach clip for mounting on an object.

These references show the state of the art at the time of their publication, but they do not anticipate or render obvious the claims of the present application.

Reconsideration of all outstanding rejections is respectfully requested.

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